

THE HONORABLE BRIAN A. TSUCHIDA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CHRISTOPHER J. HADNAGY, an individual;
and SOCIAL-ENGINEER, LLC, a
Pennsylvania limited liability company,

No. 2:23-cv-01932-BAT

**DECLARATION OF MARK CONRAD IN
SUPPORT OF PLAINTIFFS' RESPONSE
TO DEFENDANTS' MOTION TO SEAL**

Plaintiffs.

V.

JEFF MOSS, an individual; DEF CON COMMUNICATIONS, INC., a Washington corporation; and DOES 1-10; and ROE ENTITIES 1-10, inclusive.

Defendants.

I, Mark Conrad, declare under penalty of perjury under the laws of Washington State as follows:

1. I am one of the attorneys representing Plaintiffs Christopher Hadnagy and Social-Engineer, LLC.

2. I am over the age of 18, and competent to testify to the matters set forth herein; and make this declaration of my own personal knowledge.

3. Attached hereto as **Exhibit A** is a true and correct copy of a redacted version of Dkt. 91-2—"Defendants' Exhibit B, an excerpt from Ben Thomas's deposition transcript." The redactions are limited to references to Social-Engineer's client names, as well as financial and

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CASE NO.: 2:23-cv-01932-BAT

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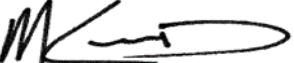
1 salary information.

2 I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF
3 WASHINGTON THAT THE FOREGOING IS TRUE AND CORRECT.

4

5 DATED this 21st day of March 2025 in Seattle, Washington.

6 FREY BUCK,

7 By: 
8 Mark Conrad, WSBA #48135

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CERTIFICATE OF SERVICE

The undersigned certifies under the penalty of perjury according to the laws of the United States and the State of Washington that on this date I caused to be served in the manner noted below a copy of this document entitled **DECLARATION OF MARK CONRAD IN SUPPORT OF PLAINTIFFS' RESPONSE TO DEFENDANTS' MOTION TO SEAL** on the following individuals:

David Perez, WSBA #43959
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Via USPS
 Via Electronic Mail
 Via Electronic Filing (CM/ECF)

DATED this 21st day of March 2025 at Seattle, Washington.

Amber S Holmes
Amber Holmes, Legal Assistant

Exhibit A to Conrad Declaration in Support of Plaintiffs' Response to Defendants' Motion to Seal

Exhibit B

Filed Under Seal

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

VIDEOTAPED VIDEOCONFERENCE
DEPOSITION UPON ORAL EXAMINATION
OF
BENJAMIN THOMAS, CPA, CFE

Witness located in Seattle, Washington
(All participants appeared via videoconference.)

DATE TAKEN: November 4, 2024
REPORTED BY: Nicole A. Bulldis, RPR, FCRR
AZ No. 50955 | CA No. 14441 | WA No. 3384

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1 A P P E A R A N C E S

2

3 FOR PLAINTIFFS:

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FOR DEFENDANTS:

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VIDEOGRAPHER:

(via Zoom) SEAN LYKKEN, CLVS

ALSO PRESENT:

(via Zoom) LAUREN ENGLISH

MIKE ST. MARTIN

--oo--

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1 REPORTED REMOTELY FROM MARICOPA COUNTY, ARIZONA

2 Monday, November 4, 2024; 9:03 a.m.

3 --oo--

4

5 THE VIDEOGRAPHER: This is the deposition
6 of Ben Thomas in the matter of Hadnagy, et al., versus
7 Moss, et al. Cause No. 2:23-cv-01932-BAT, in the U.S.
8 District Court, Western District of Washington at Seattle,
9 noticed by David Perez.

10 The time now is approximately 9:03 on this
11 4th day of November 2024, and we are convening remotely.
12 My name is Sean Lykken from Buell Realtime Reporting, LLC,
13 located at 1325 Fourth Avenue, Suite 1840, Seattle,
14 Washington 98101.

15 Will counsel and all present please
16 identify themselves for the record, starting with the
17 plaintiff.

18 MR. BUCK: Ted Buck on behalf of the
19 plaintiff.

20 MR. RIKLIS: Kristofer Riklis on behalf of
21 plaintiff.

22 MR. DEAN: Jake Dean on behalf of
23 defendants.

24 THE DEPONENT: Benjamin Thomas.

25

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1 BENJAMIN THOMAS, witness herein, having been
2 first duly sworn on oath,
3 was examined and testified
4 as follows:

5

6 BY MR. DEAN

7 Q. Good morning, Mr. Thomas. I'm assuming you've
8 been deposed before.

9 A. I have.

10 Q. Approximately, how many times?

11 A. 25, 30 times, somewhere in there.

12 Q. Is that as an expert, fact witness, or something
13 in between?

14 A. As an expert witness.

15 Q. When was the last time you were deposed?

16 A. It would've been in October, middle of October.

17 Q. Got it. So I don't want to bore us all with the
18 admonitions since you seem to be a pro, but there are a
19 few I want to go over with you.

20 The oath you just took is the same oath that you
21 would take in court and it requires you to testify
22 truthfully under the penalty of perjury. Do you
23 understand that?

24 A. I do.

25 Q. Do you intend to do so today?

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1 A. Correct.

2 Q. So your damage analysis starts from
3 February 9, 2022, and goes through, I believe, end of
4 2024; is that right?

5 A. Through the end of 2023 --

6 Q. Yeah, 2023.

7 A. -- for lost earnings component. And then lost
8 value would be assuming -- under the assumption that the
9 business can no longer be a going to concern and looking
10 at the lost business value as well.

11 Q. Got it.

12 So your analysis does not include any damages
13 from January 1st to February 9, 2022; correct?

14 A. Sorry. January 1st, say that again?

15 Q. Your damages analysis that you provided in this
16 report does not include damages from January 1st to
17 February 9, 2022; correct?

18 A. Correct, yes. That first period, right.

19 Q. Because damages during that time frame would be
20 improper; right?

21 A. It would've been prior to the issuance of the
22 February 9, 2022, report.

23 Q. Got it.

24 Were you instructed by counsel to make any
25 assumptions when preparing this report?

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1 A. No.

2 Q. Okay. Did you make any assumptions when
3 preparing this report?

4 A. The only assumption, which is typical for an
5 expert to make, is assuming the liability.

6 Q. And what do you mean by assuming liability?

7 A. My report and the calculations in my report and
8 my schedules are based on the premise that liability would
9 be found against the defendants and that has caused the
10 economic harm.

11 Q. Okay. Did you do any independent analysis to
12 determine whether any of the alleged conduct actually did
13 cause harm to Mr. Hadnagy?

14 A. Right. So that's where -- as a financial
15 expert, it's not my role to determine the liability in a
16 case, but I can see from -- that there is a link between
17 the time -- the time frame of when the events occurred and
18 the negative financial performance of the business.

19 Q. What do you mean by that?

20 A. So we have the events of February 9, 2022, the
21 release of the transparency report, as well as the
22 subsequent update in January 13, 2023. And prior to that,
23 prior to those two periods, 2022 and 2023, the business
24 was profitable. Mr. Hadnagy had income. After that,
25 those two events in 2022 and 2023, the business was not

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1 profitable and Mr. Hadnagy did not have income.

2 Q. Okay. So prior to February 9, 2022, you just
3 looked at the numbers for Mr. Hadnagy's businesses;
4 correct?

5 A. For his business as well as his personal tax
6 return.

7 Q. You didn't review any of Mr. Hadnagy's contracts
8 or potential contracts prior to 2022; correct?

9 A. I have a list of contracts that allegedly have
10 been impacted by the events, and some of them start prior
11 to February 2022.

12 Q. Well, my question is different. My question
13 wasn't whether you had a list of alleged contracts. My
14 question is whether prior to February 9, 2022, you,
15 yourself, analyzed any contracts or potential contracts
16 Mr. Hadnagy had or Social-Engineering had with respect to
17 his business.

18 A. Again, I've reviewed that spreadsheet that
19 details out certain contracts and certain contracts that
20 were impacted, and those contracts began prior to
21 February 2022. And so I can see from -- or I can glean
22 from that, that, you know, there's contracts that come in
23 and go out on an annual basis. And so I -- from that
24 perspective, I have analyzed the contracts, but I haven't
25 reviewed specific contracts.

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1 Q. Yeah. My question is different. It's pretty
2 straightforward.

3 Have you, yourself, Mr. Thomas, reviewed any
4 contracts with Mr. Hadnagy or his business
5 Social-Engineering prior to February 9, 2022? And I
6 don't --

7 MR. RIKLIS: Objection.

8 Q. (By Mr. Dean) -- mean the list of contracts. I
9 mean the actual contracts themselves.

10 MR. RIKLIS: Objection. Form.

11 THE DEPONENT: Right. Again, I've reviewed
12 that spreadsheet that has them. I haven't reviewed actual
13 contracts --

14 Q. (By Mr. Dean) Got it.

15 A. -- the details of them. But I can see, again,
16 that there are contracts that were prior to February 2022
17 and they would -- and they would come in and go on an
18 annual basis.

19 (Exhibit No. 8 introduced.)

20 MR. DEAN: I'm going to introduce Exhibit 8
21 if you give me a second.

22 (Pause in the proceedings.)

23 Q. (By Mr. Dean) Okay. It should be there and I
24 will share it on my screen in just a second.

25 A. Give me a second to download this one.

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1 Q. Can you see the document on my screen?
2 A. I can.
3 Q. Okay. When you say that you looked at a list of
4 contracts that was provided to you, is this the list that
5 you were referring to?

6 A. It is.

7 Q. Okay. Where in this list does it say the start
8 dates for contracts?

9 A. Let's see here. I have the close date. I'm not
10 sure if that indicates when the contract was closed, as in
11 the deal was solidified, or if that's the close as if the
12 end of the contract.

13 Q. Who prepared this document?

14 A. My understanding, it was Mr. Hadnagy who
15 prepared this.

16 Q. And you don't know what the term "close date"
17 means in this report; correct?

18 A. Correct. I'd have to review this again with
19 him. I don't recall.

20 Q. Have you, yourself, Mr. Thomas, reviewed any of
21 the contracts for any of the account names identified in
22 this Exhibit 8?

23 MR. RIKLIS: Objection to form.

24 THE DEPONENT: No.

25 Q. (By Mr. Dean) That's a no.

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1 And just for the record, Exhibit 8 is a document
2 titled "ContractsLost.xlsx" with a Bates label SE_001761.

3 Got it.

4 So just to clarify, you have not reviewed any of
5 the contracts listed in this document; correct?

6 MR. RIKLIS: Objection to form.

7 THE DEPONENT: Again, I have not reviewed
8 the specific contracts as of --

9 Q. (By Mr. Dean) All that you've reviewed is this
10 document that lists contracts; correct?

11 MR. RIKLIS: Objection to form.

12 THE DEPONENT: Correct. These are the
13 contracts that I have been able to get a summary of and
14 under- -- have an understanding of how contracts come in
15 and go.

16 Q. (By Mr. Dean) Okay. So going back to my original
17 question of your assumptions, you said that you assumed
18 liability. Now, my understanding would be -- of liability
19 would be, you know, that the alleged statements were, in
20 fact, defamatory.

21 Now, assuming that that definition is correct,
22 if you're following me, did you make any assumptions from
23 the statement being defamatory tying it to the damages?

24 A. Yes. I made the assumption that those
25 statements have impacted the business negatively and

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1 it is a growing business prior to the -- what I'm going to
2 call the loss event.

3 Q. (By Mr. Dean) Yeah. My question isn't whether
4 you're looking at numbers that say whether something is --
5 revenue is going up or down. My question is pretty
6 pointed.

7 It's: You don't actually know why contracts
8 were gained or lost from 2017 to 2024; correct?

9 MR. RIKLIS: Objection to form.
10 THE DEPONENT: Specifically, gained or
11 lost, correct. I don't know the exact underpinnings of
12 why a contract is -- stays or leaves specifically, but I
13 can tell from the financial performance that they had
14 positive growth prior to the loss event.

15 Q. (By Mr. Dean) And contracts could have been lost
16 by Mr. Hadnagy for a multitude of reasons; right?

17 A. Hypothetically.

18 Q. It could be because Social-Engineering or
19 Mr. Hadnagy's quality of work; correct?

20 MR. RIKLIS: Objection to form.
21 THE DEPONENT: Well, again, prior to the
22 loss event, the company had had overall growth from
23 [REDACTED] to about [REDACTED].

24 Q. (By Mr. Dean) So the answer was you do know or
25 you don't know?

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1 MR. RIKLIS: Objection to form.

2 THE DEPONENT: I do know that the company
3 has been growing.

4 Q. (By Mr. Dean) My question isn't whether the
5 company is growing. My question is: Do you know why
6 Mr. Hadnagy has lost contracts in the past?

7 MR. RIKLIS: Objection to form.

8 THE DEPONENT: Again, I don't know the
9 specific underpinnings why one contract stays or leaves
10 and one comes on and rolls off, but he had the ability to
11 find new contracts, continue his business activities, and
12 grow his business.

13 Q. (By Mr. Dean) Got it.

14 And, again, you didn't perform any independent
15 analysis to determine the cause of Mr. Hadnagy either
16 gaining or losing a contract from 2017 until 2024;
17 correct?

18 MR. RIKLIS: Objection to form.

19 THE DEPONENT: Again, I feel like I've
20 answered this. I don't know the exact underpinnings of
21 why one contract's going to come and go, but I do know
22 that the company had the ability to continue operating and
23 to grow its business and increase its revenues.

24 Q. (By Mr. Dean) Do you know who [REDACTED] is?

25 A. [REDACTED]. I've heard a lot of [REDACTED]

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1 specifics of the timing.

2 Q. (By Mr. Dean) And you don't know the specifics of
3 the timing for any of these amounts listed in this
4 Exhibit 8; correct?

5 MR. RIKLIS: Objection to form.

6 THE DEPONENT: Correct. I don't know -- I
7 don't know the specifics of the timing.

8 Q. (By Mr. Dean) And going to the column for SOW,
9 you don't know -- you haven't reviewed any of the SOWs
10 referenced in this report; correct?

11 A. I have not.

12 Q. And you have not reviewed the emails that are
13 referenced in this Exhibit 8; correct?

14 MR. RIKLIS: Objection to form.

15 THE DEPONENT: Not beyond what you've shown
16 me today.

17 Q. (By Mr. Dean) And you also said you don't know
18 what "H" means in this document; correct?

19 A. I do not know what the H stands for.

20 Q. Okay. The alleged defamatory statement was made
21 February 9, 2022; correct?

22 MR. RIKLIS: Objection. Form.

23 THE DEPONENT: February 9, 2022, was the
24 release of the transparency statement.

25 Q. (By Mr. Dean) Got it.

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1 somehow this event could've impacted their competitive
2 advantage, could've impacted their reputation, their
3 brand, and that could've been enough for somebody to
4 switch and go to a different competitor.

5 Q. Or it could just be because they -- the other
6 person had a better contract; right?

7 MR. RIKLIS: Objection. Form.

8 THE DEPONENT: Hypothetically, right.

9 Q. (By Mr. Dean) The answer is you don't know;
10 right?

11 MR. RIKLIS: Objection. Form.

12 THE DEPONENT: Again, you know, I'm making
13 that assumption in my analysis that the -- the release of
14 the statement has impacted the company and Mr. Hadnagy
15 negatively financially, and I can see that in the
16 financial records that were provided.

17 Q. (By Mr. Dean) And we'll get to that in a second,
18 but your assumption and beliefs are based off Mr. Hadnagy
19 saying that he believes that they were lost; correct?

20 MR. RIKLIS: Objection to form.

21 Q. (By Mr. Dean) Not Def Con?

22 A. Again, I can see the decline in the financial
23 performance post-loss.

24 Q. But, again, you don't know why there was a
25 decline in any performance; right?

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1 Q. (By Mr. Dean) Okay. So are you aware of the
2 American rule for recovery of attorneys' fees or legal
3 extensions?

4 A. Not the specifics, no.

5 Q. Do you know when attorneys' fees are recoverable
6 as a matter of law?

7 MR. RIKLIS: Objection. Form.

8 THE DEPONENT: Again, I don't know the
9 specifics.

10 Q. (By Mr. Dean) So you -- sitting here today, you
11 don't actually know whether legally attorneys' fees are
12 recoverable as damages; correct?

13 MR. RIKLIS: Objection. Form.

14 THE DEPONENT: Again, I don't know the
15 specifics.

16 Q. (By Mr. Dean) And you're just assuming or
17 speculating that damages for attorneys' fees or public
18 relations costs would be recoverable damages; correct?

19 MR. RIKLIS: Objection. Form.

20 THE DEPONENT: I'm not necessarily saying
21 that. I can see that, you know, they're -- an increased
22 expense is being incurred in 2022 and 2023 that weren't at
23 those levels prior.

24 Q. (By Mr. Dean) Do you know whether Def Con sued
25 Mr. Hadnagy or had Mr. Hadnagy sued Def Con?

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1 THE DEPONENT: I can see that there's
2 increased costs for professional fees, you know, in their
3 line items on their operating expenses.

4 Q. (By Mr. Dean) And all of the increases in
5 operating expenses, those are all tied to Def Con?

6 A. So the way that I look at this is that, yeah,
7 the business was performing profitably prior to the
8 issuance of the releases of the transparency report and
9 the update. And my understanding in talking to
10 Mr. Hadnagy is that, yes, they had to increase certain
11 expenses to try to maintain their business operations and
12 to continue operating as best they could given the loss of
13 contracts, the inability for extensions, as well as some
14 of their more profitable work like speeches and things
15 like that were -- he was not able to generate those
16 activities like he had been in the past.

17 Q. Got it.

18 But you didn't do any actual analysis to
19 determine whether that was correct; right?

20 A. I can see it in the financial performance of the
21 company.

22 Q. Yeah.

23 A. Historically, they were growing and then they
24 decreased afterwards and they were not profitable in '22
25 and '23.

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1 Q. Perfect. Let's go on to Schedule 2 of your
 2 report, operating expenses. Let's go to advertising and
 3 marketing. You'll see that in 2020, he had [REDACTED], or the
 4 company had [REDACTED] in advertising and marketing; correct?

5 A. I can see that.

6 Q. And in 2021 went down to [REDACTED]

7 A. Yup.

8 Q. And then 2022 went to about the same amount of
 9 costs as it was in 2020; correct?

10 A. Correct.

11 Q. Okay. So how, sitting here today, can you say
 12 that that \$[REDACTED] increase was attributable to Def Con or
 13 Mr. Moss?

14 A. Well, again, you know, I look at that -- that
 15 is -- as a percent of revenue is actually lower in 2022
 16 than it was historically, say, 2020, at [REDACTED] percent versus
 17 prior to that at [REDACTED] percent. So, you know, I don't
 18 really necessarily see that as a true increase of \$[REDACTED]
 19 as you're just going to say there are damages. I don't
 20 view it that way.

21 Q. Got it.

22 So you're not able to say that this extra [REDACTED]
 23 is attributable to Def Con; is that fair?

24 MR. RIKLIS: Objection. Form.

25 THE DEPONENT: Again, it's the continued

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1 operations of the business.

2 Q. (By Mr. Dean) Got it.

3 So going to conference supplies, there's an
4 increase from 2021 to 2022, from [REDACTED]. Are
5 you aware of how conference supply increases are tied to
6 Def Con or Mr. Moss?

7 A. Again, I don't -- part of -- my understanding
8 part of his business is going to Def Con and posting his
9 village there, and conference supplies might -- I would
10 believe would be related to that.

11 Q. So even though he didn't go to Def Con in 2022,
12 there was an increase in fees or costs that year?

13 MR. RIKLIS: Objection. Form.

14 THE DEPONENT: I wouldn't necessarily call
15 it an increase in cost. You're at 1.9 percent of revenue.
16 Historically, it had been 4.4, 5.9, 2.4, .9, so I think
17 you were -- we're right in line with what normal or
18 actually below what conference supplies would've been
19 historically.

20 Q. (By Mr. Dean) Got it.

21 So what about charitable contributions?

22 In 2021, he decided to pay [REDACTED] that he didn't pay
23 in 2021. Is that attributable to Mr. Moss or to Def Con?

24 A. Again, you know, that's sort of de minimis for
25 what we're looking at here. It's right in line with what

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1 they have spent historically on charitable contributions.

2 You know, they spent [REDACTED] in '19; [REDACTED] in 2020;

3 didn't have any in 2021, and you have some in 2022.

4 Q. And what are these consulting fees?

5 A. I don't know the specifics behind the consulting
6 fees.

7 Q. Okay. So you don't know the specifics behind
8 the consulting fee, but there was a rise in the consulting
9 fees because of Mr. Moss and Def Con?

10 A. I'd have to recall my conversations I had with
11 Mr. Hadnagy about each one of these specific line items.
12 And my recollection is that, yes, some of these expenses
13 were increasing due to the issues that they were having
14 post-release of the transparency report and the update,
15 and increased some of these costs and maybe consulting
16 fees is one of those.

17 Q. Sitting here today, can you tell me what the
18 consulting fees are?

19 A. Right. Like said, I don't know -- I don't know
20 exactly what those relate to. I'd have to refresh my
21 recollection.

22 Q. And sitting here today, can you tell me how they
23 actually increased because of Def Con or Mr. Moss?

24 A. Right.

25 MR. RIKLIS: Objection. Form.

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THE DEPONENT: Same answer there. I don't know the specifics of the increase.

3 Q. (By Mr. Dean) Got it.

4 Going to meal-business, did Social-Engineer,
5 Mr. Hadnagy just get hungrier in 2022 because of Def Con
6 and Mr. Moss or what are those expenses?

7 MR. RIKLIS: Objection. Form.

8 THE DEONENT: I — I would disagree with
9 that characterization. You know, they're 20 -- they're
10 1.2 percent of revenue in 2022, where, historically,
11 they've been 1.8, 2.2, .4, .2. You know, this is part of
12 the normal activity of operating this business. Nothing
13 stood out as this is an increase.

14 Q. (By Mr. Dean) Then what are -- can you point to
15 me the increases in the Schedule 2 that are attributable
16 to Def Con or Mr. Moss?

17 A. Yeah. I think when you go to the bottom, you
18 have expenses that are exceeding revenue in 2022 at
19 105 percent. We're dealing with [REDACTED] almost [REDACTED] in
20 total operating expenses. And, again, in 2023, you're at
21 [REDACTED], and you're also over 100 percent of operating
22 expenses at 103.7 percent, where historically that just
23 wasn't the case. Right? Like, they -- they had the
24 ability to increase their revenue, have their expenses
25 increase but at a lower rate than the revenues were

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1 increasing, and have profitability.

2 After the release of the transparency report, we
3 don't have that anymore. We have an increase in expenses,
4 decreasing revenues, and negative operating performance,
5 right? So we have an operating loss now in 2022 and 2023.

6 Q. But why?

7 A. Again, I'm making the assumption that it's tied
8 back to the issuance of the transparency report.

9 Q. But how -- I guess how can you make that
10 assumption when you have all these line items that tell
11 you the increases?

12 MR. RIKLIS: Objection. Form.

13 THE DEPONENT: Some of these are going to
14 be directly related to Def Con and the performance of how
15 they operated post-release of the transparency report.
16 But when you have a situation where your revenues are
17 going down or staying flat when you expected an increase
18 and you incur these costs and you're not getting the
19 economic benefit that you expected to get out of them like
20 you had historically. And, again, I'm making that
21 assumption that that is related to the issuance of the
22 transparency report.

23 Q. (By Mr. Dean) You said some of them are going to
24 be connected to Def Con, Jeff Moss, and the transparency
25 report, which means that some of them are not going to be

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1 Q. (By Mr. Dean) Do you understand you're still
2 under oath?

3 A. I do.

4 Q. Okay. Did you look at the line items for public
5 relations and professional fees when preparing your
6 report?

7 A. Yes, I can see those line items.

8 Q. Did you look at the support to see what those
9 numbers were comprised of, or did you just base that off
10 of numbers provided by Mr. Hadnagy?

11 A. Based off of the numbers that were provided and
12 the financial statements.

13 Q. Do you know whether those professional fees -- I
14 guess let me back up.

15 Professional fees. What do you mean by
16 professional fees?

17 A. Right. The way I look at that or the way that I
18 view that is those are the increased legal fees.

19 Q. Okay. So in 2021, there was █ -- let's call it
20 █ in professional fees versus █. Did -- when
21 you looked at this, did you just assume all █ were
22 for Mr. -- or for Mr. Moss and Def Con or did you somehow
23 portion it out to prior legal fees?

24 A. No. I would say that, you know, there's going
25 to be increased costs associated with professional fees

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1 [REDACTED] in 2021 -- that you're ultimately using in your but
2 for analysis; is that right?

3 A. Correct.

4 Q. Okay. Now, I want to take 2020 as an example
5 because I want to make sure I understand how you're
6 getting Social-Engineer costs versus the total income in
7 other things that he's doing.

8 So you go up, you'll see for the total business
9 income loss line, that's where you'll see the [REDACTED]. Do
10 you see that?

11 A. I do.

12 Q. So is it fair to say that the income for
13 Social-Engineer in 2020 is comprised of business income
14 from Social-Engineer, LLC, and SEVillage LLC?

15 A. Correct.

16 Q. Okay. And then [REDACTED], what is this number
17 comprised of for Social-Engineer -- excuse me -- LLC?

18 A. It's comprised of the overall -- that income of
19 the business.

20 Q. Where is that in Schedule 2 showing the net
21 income for 2020 to get that number?

22 A. Maybe the operating income of [REDACTED].

23 Q. I'm seeing [REDACTED]. Operating income [REDACTED] for 2020.
24 Do you see that as well?

25 A. I do.

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1 income that has been derived from the business
2 historically inclusive of the wages.

3 Q. Can you explain that to me again? I'm not
4 following.

5 A. So the business generates revenue and expenses,
6 right? This is just one line item in expenses and it's
7 getting expensed as a wage and being reported as a W-2
8 earnings on their personal tax returns. So this is the --
9 reporting the total activity related to
10 Social-Engineering.

11 Q. So Ms. Hadnagy's income -- or the expenses for
12 Ms. Hadnagy in running Social-Engineer also are included
13 in the income that Mr. Hadnagy makes?

14 A. It would be the overall income that's generated
15 on his 1040, yes, from the business.

16 Q. Got it.

17 So Mr. Hadnagy's [REDACTED] in income for
18 Mr. Hadnagy's reputation includes the amounts that his
19 wife makes as a salaried employee for Social-Engineer?

20 A. Historically, they've been able to generate
21 [REDACTED] on average in the form of
22 wages, business income, and that has been interrupted
23 post-loss event due to the fact that they've had the
24 issuance of the transparency report and the activity level
25 inclusive of that has gone down and had losses in '22 and

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1 '23.

2 Q. Is that typical to add your spouse's income for
3 reputational damages?

4 A. I'm looking at all of the activity in the
5 economic benefit that's being generated on his personal
6 tax return from Social-Engineering. Yeah. Another way to
7 look at it would be just to remove it in '21, '22, and '23
8 and damages would actually go up.

9 Q. Well, what's the correct way?

10 A. I think the way that I did it is a correct way
11 to do it. To go about it is to look at the total economic
12 benefit that's being generated from the business that he's
13 the owner of on his personal tax return. Historically,
14 it's been [REDACTED] in 2021. It was [REDACTED], inclusive of
15 those wages. You know, I -- I could see it being
16 calculated the -- another way as well where you just say
17 those expenses are not his or those wages are not his, and
18 you could remove them, and, ultimately, the losses would
19 be greater in 2022 and 2023.

20 Q. So you said, historically speaking, his wages
21 have been [REDACTED]. But historically speaking, if you look
22 at [REDACTED] all the way through in 2017 to the [REDACTED]
23 in 2021, and you average those, wouldn't that be [REDACTED],
24 not \$ [REDACTED]?

25 A. So what years are you trying to average?

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1 Q. Yeah. You said historically speaking, he makes
2 [REDACTED] a year; is that fair?

3 A. In 2020 and 2021, from -- the economic benefit
4 from Social-Engineering has been right around [REDACTED] -- so
5 [REDACTED].

6 Q. So let's stop there, 2020 and 2021. You -- you
7 say because he made [REDACTED] and [REDACTED] in 2020 and 2021, that he
8 makes [REDACTED] a year for your but for analysis; right?

9 A. Correct.

10 Q. But you didn't average those numbers; correct?

11 A. I did not average them, no.

12 Q. If you averaged them, it would be about [REDACTED];
13 fair?

14 A. Which would round to [REDACTED].

15 Q. So you're kind of using, like, the -- for lack
16 of a better term, like, "thumb to the tongue, this sounds
17 about right, [REDACTED]," to come up with that but for number;
18 right?

19 MR. RIKLIS: Objection. Form.

20 THE DEPONENT: I'm not, no. I mean, you're
21 right that the average is \$ [REDACTED].

22 Q. (By Mr. Dean) Then why not use --

23 A. That's approximately [REDACTED].

24 Q. Then why not use [REDACTED]?

25 MR. RIKLIS: Objection. Form.

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1 THE DEPONENT: He has -- he's been able to
2 generate [REDACTED] in one year and [REDACTED] in another. The
3 business was expected to grow in 2022. Revenues actually
4 did slightly in 2022. I know it wasn't to the level that
5 was expected, so I -- I selected [REDACTED]

6 Q. (By Mr. Dean) But why not the average? Why not
7 the historical average? Why just [REDACTED]? Is it because it
8 was a round number?

9 MR. RIKLIS: Objection. Form.

10 THE DEPONENT: Again, I rounded to [REDACTED]

11 Q. (By Mr. Dean) Got it.

12 So you used [REDACTED] because it's a round
13 number; right?

14 MR. RIKLIS: Objection. Form.

15 THE DEPONENT: If I take the average and --
16 the rounded average of those two, it's [REDACTED]

17 Q. (By Mr. Dean) So you're not using exact numbers
18 in your damages report. You're using rounded numbers in
19 your damages report.

20 MR. RIKLIS: Objection. Form.

21 THE DEPONENT: Again, no. I mean, I think
22 you have -- looking at the historical profitability, you
23 know, achieving roughly [REDACTED] in 2020, [REDACTED] in 2021,
24 the average, like you said, to [REDACTED], I rounded it to
25 [REDACTED].

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1 THE DEPONENT: This has been asked and
2 answered. My assumption and my premise in this as I'm
3 operating and calculating damages is that the release of
4 the transparency report and the update have caused
5 financial harm to the business.

6 Q. (By Mr. Dean) Understood.

7 So I want to dig back into the lost business
8 value a little bit. I know we were talking about it
9 earlier. We just went to the lost income. In order for
10 you to give Mr. Hadnagy the entirety of this [REDACTED] million
11 dollars, you've got to assume that the business is worth
12 zero; right?

13 A. On a go-forward basis, correct. That, you know,
14 we're -- he's no longer a going to concern. It needs to
15 shut down. He gets to take his cash. His cash is not
16 included in that value and hopefully that's enough to
17 satisfy the debts. And this is what he gets -- or this is
18 what he would've been able to receive had it not been shut
19 down.

20 Q. Got it.

21 And, actually, I'm going to come back to that in
22 a second. I have one final question I want to ask about.

23 In 2022, going back to your chart in
24 Paragraph 20, you did but for income for the entire year,
25 January 1st to December 31, 2022. It would've been [REDACTED].

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1 You said he had an actual loss of [REDACTED], so that gives
2 you a lost income of [REDACTED]; correct?

3 A. Correct.

4 Q. And that is essentially the [REDACTED] plus the \$ [REDACTED]
5 that's the loss that gives you that [REDACTED]?

6 A. It is.

7 Q. Okay. So that includes damages from
8 January 1, 2022, to February 10, 2022; correct?

9 A. I don't necessarily see it that way. I mean,
10 it's not abnormal to say, you know, that an individual is
11 impacted at some point in 2022 and we're going to look at
12 the full year of but for earnings less actual to arrive at
13 the damages.

14 Q. You didn't do any formula to say, Well, here's
15 what it was for the entire year. Let's go for however
16 many days is in the year to kind of break it down from
17 that February 9th going forward?

18 A. I did not do that.

19 Q. Got it.

20 Going back now to the lost value -- lost
21 business value. We were talking about Paragraph 27, and
22 you said, "Yeah. You'd have to kind of assume that there
23 was a complete destruction." So before we get there, I
24 want to go back through some of these preceding
25 paragraphs.

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1 income approach, were the damages higher or lower than the
2 market approach?

3 A. It would just depend on how you assess the risk
4 and the discounting for the discount rate. If you're
5 using, say, a cost of equity of 15 percent, it's going to
6 be higher. If you're using a cost of equity of, say, I
7 don't know, 17, 18 percent, you're going to be right
8 around the [REDACTED]. So I'm thinking it just
9 depends. Ultimately, I didn't select this method. I
10 think that the market approach is a sufficient way to go
11 about deriving the value for this business. Looking at
12 market transactions that are comparable and using that --
13 the multiples from those selected transactions against the
14 financial statistics that we have for Social-Engineering
15 based off of the revenue.

16 Q. And why is the income approach not appropriate?

17 A. I wouldn't say it's necessarily not appropriate.
18 It's just I didn't select it. I selected the market
19 approach.

20 Q. Did you actually perform an analysis under it,
21 or did you just do some numbers and say, "I think the
22 market approach is better"?

23 MR. RIKLIS: Objection. Form.

24 THE DEPONENT: No. I didn't necessarily
25 say it's better. I just -- it's a -- it's a method that I

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1 did select versus running a capitalization of earnings
2 method.

3 Q. (By Mr. Dean) Did you run the capitalization of
4 earnings method with respect to Mr. Hadnagy's or
5 Social-Engineer's damages in this case?

6 A. I haven't formalized a calculation, no. I have
7 calculations on my end where I -- we absolutely have the
8 model set up where we can test it and see what the value
9 could be under various approaches.

10 Q. Did you build that out for this case?

11 A. Yes. I have -- I have those types of
12 calculations. I don't have anything formalized, though.

13 Q. Did you produce those?

14 A. I can.

15 Q. What was the damages that you got when you
16 performed that method?

17 A. Right. I mean, it could be, you know, right
18 now, the one that I'm looking at if I -- it just depends
19 on how you assess the risk -- right? -- of those cash
20 flows if I -- I'm at [REDACTED].

21 Q. And you said that there was different --
22 different variables or different things you can do. You
23 ran multiple. Can you tell me what those damages were?

24 A. Yeah. Absolutely. I mean, I'm just -- you
25 know, look at the risk, the discount rate, the cost of

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1 over the last couple years, receiving the balance sheets
2 recently that showed that they had a negative book value
3 for the first time over the review period, I think there's
4 a potential that the business is -- could no longer be a
5 going concern.

6 Q. So can you definitively say that the business
7 sitting here today is destroyed?

8 A. No.

9 Q. But you perform a lost business valuation that
10 essentially states that right around February 9, 2020, the
11 business was worth approximately [REDACTED] or
12 \$[REDACTED]; is that right?

13 A. That's right.

14 Q. And in assessing your damages, you essentially
15 put the value of the business today at zero to give
16 Mr. Hadnagy all [REDACTED]; correct?

17 A. Right. This would be under the scenario that
18 the business does go down.

19 Q. Okay. What if the business doesn't go down?

20 A. Then that number could change.

21 Q. And what year is your analysis based on?

22 A. It's based off of the financial performance from
23 2021 prior to the incident as being the basis for
24 establishing the value at that time.

25 Q. And I'll ask a different question. I guess,

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1 sitting here today, is the business worth zero and he's
2 entitled to all [REDACTED] or has that changed or is that
3 fluid? Kind of where are we with what he gets?

4 MR. RIKLIS: Object to the form.

5 THE DEPONENT: Again, this is the potential
6 loss of the business assuming there's zero value today or
7 that it will go down at some point in the future. And you
8 can see that in the financial performance, that they are
9 generating losses and the balance sheet showing for the
10 first time that they have a negative equity position and
11 they've taken on debt, which they historically haven't
12 done. So I think there -- there's indications of it
13 heading that way, but, yes, I would say that it could
14 change. And if the business improves for some reason or
15 doesn't go under, then that value could change.

16 Q. (By Mr. Dean) What's the value of the business
17 today?

18 A. I haven't done a valuation of the business
19 today. You know, we're assuming under this premise that
20 the value would be zero. It would go away. The business
21 would be lost.

22 Q. And what's that assumption based off of?

23 A. Again, based off of the financial performance
24 after the issuance of the transparency report where
25 they're generating losses year over year in '22 and '23.

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1 1.6, the -- or, sorry -- the 75th percentile is 2.7, and
2 the high was 3.9 multiples. I -- you know, based off of
3 my discussions with Mr. Hadnagy, the business is --
4 doesn't necessarily have, like, a software or like a
5 software-as-a-service-type thing, which would typically
6 increase your multiple, and they're more on the
7 traditional consulting -- information consulting side.
8 And due to that, I selected the lower -- towards the lower
9 end of the multiples.

10 Q. And what were you using to determine the
11 multiple? I mean, what are the comps?

12 A. Right. So I provided the comps. There's 14
13 transactions from 2010 through 2017. Sorry, 2023 would be
14 the more recent ones. And looking at the description of
15 the businesses that were being acquired as well as looking
16 at their -- their revenue and profitability and size and
17 things like that, some were larger than we have here and
18 some were smaller. So you have -- taking that into
19 consideration, but there's 14 within the information
20 security, security solutions, and consulting industry.

21 Q. What parameters did you use or metrics did you
22 use to determine these comps? And if you don't understand
23 what I mean, I can explain.

24 A. Yeah. No, I searched with -- inside NAICS codes
25 for information technology, searching specifically for

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1 A. I have the list of the transactions that were
2 excluded and I can absolutely find them.

3 Q. After you excluded those entities, did you do
4 anything to find additional entities to add to the final
5 list?

6 A. No. The 14 that were selected were sufficient.

7 Q. Okay. Why did you use entities from 2010, which
8 were about 14 years ago, or I guess at the point you did
9 your math, it'd be 12 years prior?

10 A. Yeah. So, I mean, this is -- in my mind, yeah,
11 that's relatively recent. I wouldn't call that a stale
12 transaction. In some industries, it doesn't matter how
13 old you go or how far back you go in time. They could
14 always transact at one multiples, not -- you know, and be
15 more driven off of the earnings and the revenue of a
16 company versus the multiple.

17 Q. I am not great at math, but I did the equation
18 on Paragraph 27 of your report, 1-point -- or [REDACTED]
19 times [REDACTED], and I did not get [REDACTED]. I got [REDACTED], so what am
20 I doing wrong in my equation?

21 A. The multiples I provided, if you -- you know, if
22 you look at them, the actual multiple is [REDACTED], and that
23 would get you there.

24 Q. So why didn't you put [REDACTED] -- whatever it is you
25 said in your equation on Paragraph 27?

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1 A. As presentation, you know, typically, you show
2 multiples like a 1.1, 1.2, 0.9. I absolutely could've
3 expanded it and showed more of the decimal places.

4 (Exhibit No. 10 introduced.)

5 Q. (By Mr. Dean) I'm looking at the guideline
6 company transaction summary, which I'm going to mark as
7 Exhibit 10. That was provided by counsel, and I will show
8 it to you right here.

9 I see it says █ as the median, and not █ and
10 some other decimal. So, again, where is that in the
11 information we've been provided that shows a number higher
12 than the █?

13 A. Well, on that spreadsheet, they're derived off
14 of multiples that are up above. And the revenue multiples
15 are derived off of the equation of revenue divided by the
16 enterprise value, and it would not be difficult to run a
17 median -- you know, redo those calculations, run the
18 median, and find that it's not exactly █.

19 Q. So you used █ just for the sake of presentation
20 when you wrote Paragraph 27?

21 A. Correct.

22 MR. RIKLIS: Objection. Form.

23 Q. (By Mr. Dean) You said correct?

24 A. Correct. It was for presentation. That's
25 generally how multiples are shown. I mean, I -- yes, we

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1 C E R T I F I C A T E
2
3 STATE OF ARIZONA)
4 COUNTY OF MARICOPA)
5
6 I, Nicole A. Bulldis, RPR, a Certified Court
7 Reporter, do hereby certify under the laws of the State of
Washington:
8
9 That the foregoing videotaped deposition upon
oral examination of Benjamin Thomas was taken
stenographically by me, via Zoom, on November 4, 2024, and
transcribed under my direction;
10
11 That the witness was duly sworn by me to testify
truthfully, and that the transcript of the deposition is
full, true, and correct to the best of my ability;
12
13 That I am not a relative, employee, or counsel
of any party to this action or relative or employee of
such counsel, and that I am not financially interested in
the said action or the outcome thereof.
14
15 Reading and signing was not requested pursuant
to FRCP Rule 30(e).
16
17
18 IN WITNESS WHEREOF, I have hereunto set my hand
19 this 5th day of November 2024.
20
21
22
23
24
25
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